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October 28, 2004

***Electronic Filing***

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Re: **Ex Parte Submission**  
Amendment of Part 22 of the Commission's Rules to Benefit the  
Consumers of Air-Ground Telecommunications Services  
WT Docket No. 03-103

Dear Ms. Dortch:

Space Data Corporation ("Space Data") submits these *ex parte* comments in the above-referenced proceeding in support of AirCell Inc.'s ("AirCell") September 17, 2004 *ex parte* letter urging the Commission to award bidding credits to small businesses in the event that air-to-ground ("ATG") licenses are auctioned. Space Data agrees with AirCell that making bidding credits available in the ATG auction would benefit the public interest.

Bidding credits allow the Commission to satisfy its mandate to allocate licenses in a manner that promotes "economic opportunity and competition" and "ensure that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses."<sup>1</sup> The Commission has expressly acknowledged "that bidding credits help achieve our statutory objective under Section

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<sup>1</sup> 47 U.S.C. § 309(j)(3)(B). The Commission fulfills this duty "by disseminating licenses among a wider variety of applicants, including small businesses." *Id.*

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309(j)(3)(B) of the Communications Act.”<sup>2</sup> The Commission has a well-established record of adopting auction rules that include bidding credits.<sup>3</sup>

Space Data supports AirCell’s proposal that the Commission adopt, at a minimum, the schedule of bidding credits set forth in Part 1 of its rules and apply those credits to the ATG auction.<sup>4</sup> Absent bidding credits, many small businesses could not participate in the ATG auction. Bidding credits also help small businesses more readily acquire critical financing.<sup>5</sup>

Space Data is a small business that would qualify for bidding credits under the Commission’s rules. As previously described in this proceeding, Space Data has developed an innovative balloon-based telecommunications system to provide advanced messaging and other advanced wireless telecommunications services across the United States. Bidding credits allowed Space Data to secure spectrum in other auctions for its start up operations and to begin offering advanced wireless services to customers in rural and other underserved areas. Space Data has the resources and expertise also to provide a valuable ATG service to the public, but without the benefit of bidding credits in the ATG auction, it is unlikely that Space Data can compete for a license against much larger and better financed companies.

Accordingly, Space Data requests that the Commission follow its well-established precedent of providing bidding credits for small businesses if it assigns ATG licenses by auction. Given the high level of interest in the ATG band, Space Data also

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<sup>2</sup> See *Amendment of the Commission’s Rules Regarding Multiple Address Systems*, Report and Order, 15 FCC Rcd 11956, ¶ 125 (2000).

<sup>3</sup> See, e.g., *Amendments to Parts 1, 2, 27 and 90 of the Commission’s Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz and 2385-2390 MHz Government Transfer Bands*, Report and Order, 17 FCC Rcd 9980 (2002); *Amendment of Part 90 of the Commission’s Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service*, Third Report and Order, 12 FCC Rcd 10943 (1997).

<sup>4</sup> Part 1 provides that a bidder with annual gross revenues of not more than \$40 million for the preceding three years (a “small business”) is eligible for a 15 percent discount on its winning bids and a bidder with annual gross revenues of not more than \$15 million for the preceding three years (a “very small business”) is eligible for a 25 percent discount on its winning bids. See 47 C.F.R. §§ 1.2110(f)(2)(ii)-(iii).

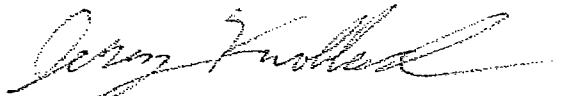
<sup>5</sup> See *Implementation of Section 309(j) of the Communications Act-Competitive Bidding*, Final Rule, 1994 FCC LEXIS 4959, ¶ 97 (noting that Congress has acknowledged the difficulties that “small business concerns” encounter in attempting to gain access to capital).

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urges the Commission to consider increasing the level of bidding credits available to small businesses.

Pursuant to Section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed with the office of the Secretary. If you have any questions regarding this notification, please contact the undersigned.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jerry Knoblach", with a long, sweeping horizontal line extending to the right.

Jerry Knoblach, CEO

cc: Bryan Tramont  
Sheryl Wilkerson  
Sam Feder  
Jennifer Manner  
Paul Margie  
Barry Ohlson  
John Muleta  
Peter Tenhula  
David Furth  
Gregory Vadas  
Roger Noel  
Kathy Harris  
Richard Arsenault  
Jay Jackson  
Thomas Derenge  
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Julius Knapp  
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